IN THE HIGH COURT OF ORISSA AT CUTTACK
WA No.740 of 2025

Chameli Rout .... ***Appellant***

Dr. Sujata Dash, Advocate

-versus-

Cuttack Bar Association and others .... ***Respondents***

Ms. Aishwarya Das, Additional Standing Counsel

CORAM:
THE HON'BLE THE CHIEF JUSTICE
AND
THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

Order No. **30.04.2025**

01. This matter is taken up through Hybrid mode.

2. The right to appeal emanates from a statute as a litigant cannot assume such right unless provided in the statute. Even the right to appeal is provided in the statute, yet a person cannot maintain such appeal unless he is regarded as an aggrieved person. The expression "aggrieved person" has to be understood in juxtaposition with the prejudice having suffered by the litigant and affecting the right either claimed by or against the said person. A person cannot maintain an appeal unless the order impugned in the judicial proceeding affects the rights expressly or impliedly.

3. The counsel for the appellant vociferously submits that opposite party no.4 of the writ petition, who is the appellant in the instant appeal, has suffered prejudice not only by the impugned order but the

order passed earlier in the writ petition. It is arduously submitted by the appellant that she was not given an opportunity of hearing and was not permitted to offer her candidature in the ongoing election and therefore renders her an aggrieved person or, in other words, an affected person who is pursuing her rights in pursuit of proper justice. It is arduously submitted before us that the matter was taken without being listed on 28.03.2025 by the Single Bench and therefore, it is apparent that a principle of natural justice has been violated.

4. We venture to delve into the records in order to satisfy our conscience on the submissions advanced by the appellant before us. It is undeniable that the order dated 28.03.2025 is a subject matter of challenge in the instant writ appeal which runs thus:-

> *"**Order No. 06***
>
> *1. This matter is taken up through hybrid mode.*
>
> *2. Heard Mr. G. Agarwal, learned Sr. Counsel appearing for the Petitioner along with Ms. S. Srivastava, learned counsel, Mr. S.S. Das, learned Sr. Counsel appearing for the Opp. Party No. 2 along with Ms. S. Das, learned counsel and Mr. B.B. Mishra, learned counsel appearing for Opp. Party No. 3.*
>
> *3. On the face of the undertaking given by Opp. Party No. 4 that she will appear in Person, but she is not there when the matter was taken up.*
>
> *4. On the request made by the learned counsel appearing for the Parties, list this matter on 16th April, 2025."*

5. The order passed earlier in the said writ petition has not been assailed independently nor otherwise in the memorandum of appeal filed in the instant appeal. The Court should restrict its scrutiny on the

order or judgment challenged in the appeal in order to ascertain whether the appellant has suffered prejudice by the impugned order to make him a person aggrieved. Though the right of appeal is provided to a party to the proceedings, yet the Appellate Court may refuse to entertain such appeal if it finds that the impugned order does not affect any right either expressly or impliedly.

6. The tenet of the impugned order, as reproduced hereinabove, does not instill any impression upon us that the appellant has suffered any prejudice or any right which she possess or claim is affected. Paragraph-3 of the impugned order indicates that there was an undertaking given by appellant to appear in person on the next date but she could not appear. Despite the non-appearance of the appellant, the Single Bench has not passed any order nor made any remark in the said judgment on the failure of the appellant to appear in person but simply directed the matter to be listed on the next date.

7. We thus do not find that such decision taken by the Single Bench created any impact on the rights of the appellant nor caused any prejudice, thereby, foreclosing the doors for all time to come.

8. The interesting pleas is made that the said matter was taken abruptly out of the turn without being listed on the said date, we do not find any substance therein. Upon noticing, the order No.5 dated 27.03.2025, the matter was also taken on the board and listed on 28.03.2025 to be taken up at 1.30 P.M. in Chamber. Obviously, bearing in mind the sensitivity of issues, the matter was directed to be taken up in Chamber and we cannot ignore the fact that the appellant

might have overlooked such direction and could not appear. Had it been a case that for non- appearance any remark or the order is passed by the Single Bench, we would have appreciated the contention of the petitioner but since no remarks, be it adverse or otherwise, nor any order affecting the rights of the appellant is passed in the impugned order, we do not find that the appellant can be regarded as an aggrieved person to maintain the instant appeal.

9. The appeal is dismissed.

10. However, the dismissal of the appeal shall not preclude the appellant to raise all the issues available, on fact and law, in the said writ petition pending before the Single Judge and if the same is taken, we are confident that the Single Bench will take into account and consider the same on its merit. We request the learned Single Judge to give some precedence to the said writ petition so that it may reach to its logical end.

11. Urgent Photostat certified copy, if applied for by the appellant, be given within three days from the date of said application.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Aswini

Signature Not Verified

Digitally Signed
Signed by: ASWINI KUMAR SETHY
Designation: Personal Assistant (Secretary-in-Charge)
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 01-May-2025 18:04:06